

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Criminal Action No. 07-129-SLR
)	
MICHAEL HENRY,)	
)	
Defendant.)	

MEMORANDUM OF PLEA AGREEMENT

Pursuant to discussions between the United States of America, by and through its attorneys, Christopher J. Burke, Assistant United States Attorney for the District of Delaware, and Colm F. Connolly, United States Attorney for the District of Delaware, and the defendant, Michael Henry, by and through his attorney, Keir Bradford, Esquire, the following agreement is hereby entered into by the respective parties:

1. The defendant shall plead guilty in the United States District Court for the District of Delaware to Count One of the Indictment, which charges him with being a prohibited person in possession of a firearm, in violation of Title 18, United States Code, Sections 922(g)(1) and 924(a)(2), which carries a maximum sentence of a term of imprisonment of ten years, a \$250,000 fine, or both, three years supervised release, and a \$100 special assessment.

2. At the time of sentencing, the government agrees to move to dismiss Counts Two and Three of the Indictment.

3. The defendant understands that if there were a trial, the Government would have to prove the following elements with respect to Count One of the Indictment: (1) that the defendant knowingly possessed a firearm; (2) at the time of the defendant's possession of the firearm, he had

previously been convicted of a crime punishable by more than one year's imprisonment; and (3) that the firearm affected interstate commerce, that is, that it had previously crossed state lines.

4. The defendant knowingly and freely admits that on July 4, 2007, he knowingly possessed a firearm – specifically, a Smith and Wesson caliber .9mm pistol, model SW9VE (serial number PDK4140) – while at the Burton Village apartment complex in Rehoboth Beach, Delaware. The defendant further admits that on this date, he was engaged in an argument with “A. M.” at that apartment complex. The defendant acknowledges that after two acquaintances of A. M. arrived at the apartment complex to give A. M. a ride, he displayed the firearm to them and told them that A. M. would not be leaving the complex with them. The defendant admits that after these two people drove away, he continued to engage in an argument with A. M., during which he discharged the firearm into the ground.

5. Provided that the United States does not subsequently learn of conduct by the defendant inconsistent with acceptance of responsibility, the United States agrees that in consideration of the defendant's timely guilty plea, a two-point reduction in the offense level for the defendant's affirmative acceptance of responsibility is appropriate, pursuant to Sentencing Guideline Section 3E1.1(a). The government further agrees that if the defendant's base offense level is determined by the Court to be level 16 or greater, the government will move for an additional one-point reduction to that offense level, pursuant to Sentencing Guideline Section 3E1.1(b).

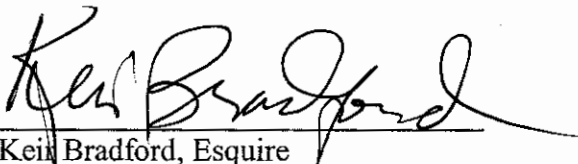
6. The defendant agrees to abandon any right, title and interest that he may have in the (1) Smith and Wesson caliber .9mm pistol, model SW9VE (serial number PDK4140); (2) the 14 rounds of .9mm cartridges; (3) the .9mm cartridge case; and (4) \$3,843 in cash, all of which were all seized by members of the Delaware State Police on either July 4 or July 5, 2007. He agrees to execute all documents requested by the Government to effect his abandonment; and agrees that the Bureau of Alcohol, Tobacco & Firearms and/or the Delaware State Police may dispose of these items in whatever manner they deem appropriate.

7. The defendant understands that at sentencing the District Court must consider the United States Sentencing Guidelines and take them into account in exercising its discretion to determine the appropriate sentence and must also consider the other factors bearing on an appropriate sentence pursuant to 18 U.S.C. § 3553(a). The defendant further understands that at this stage of the proceeding (prior to the preparation of the Presentence Investigation Report) the Government expects to recommend that the Court impose a sentence consistent with the sentencing range set forth by the Sentencing Guidelines. The defendant understands that the Court is not bound by any stipulation between the parties, and that if the Court calculates the guidelines differently than he expects, or contrary to any stipulation of the parties or recommendation of his attorney, that he will not be allowed to withdraw his guilty plea.

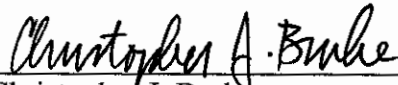
8. The defendant agrees to pay the \$100 special assessment the day of sentencing. Should he fail to do so, the defendant agrees to voluntarily enter the United States Bureau of Prisons' administered program known as the Inmate Financial Responsibility Program through which the Bureau of Prisons will collect a portion of defendant's prison salary and apply it on defendant's behalf to the payment of the outstanding debt ordered.

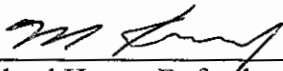
9. The United States Attorney reserves the right to defend any ruling of the District Court should there be an appeal from this case.

10. It is further agreed by the parties that this Memorandum supersedes all prior promises, representations, and statements of the undersigned parties; that this Memorandum may be modified only in writing signed by all the parties; and that any and all promises, representations and statements made prior to or after this Memorandum are null and void and have no effect whatsoever, unless they comport with the subsequent written modification requirements of this paragraph.


Keith Bradford, Esquire
Attorney for Defendant

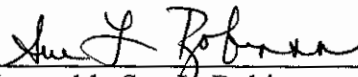
COLM F. CONNOLLY
United States Attorney

By: 
Christopher J. Burke
Assistant United States Attorney


Michael Henry, Defendant

Dated: December 17, 2007

AND NOW, this 17th day of December, 2007, the foregoing Memorandum
of Plea Agreement is hereby (accepted) (rejected) by this Court.


Honorable Sue L. Robinson
United States District Court